

1 A. No, sir. Merit System dictates that they
2 get -- basically, they've got to get permission to
3 do so, but I haven't seen where anybody has been
4 turned down.

5 Q. What about during the period of probation?

6 A. Probationary period that we focus on
7 training. During the probationary period, we have a
8 restriction up until they finish their -- get
9 certified.

10 Q. Okay. So just so I'm clear on that and the
11 record is clear, during the 18-month probationary
12 period in the city's fire department, that new hire
13 during that 18-month period is not permitted to have
14 a secondary job; is that correct?

15 A. They changed that. It was during the 12
16 months of getting your state certification. The key
17 to it is we didn't inflict that on them when we
18 extended to the 18 months as far as having a
19 secondary job. We made sure -- because you were
20 going to have to be state certified within one year
21 or we couldn't keep you aboard anyway.

22 Q. So what's the current restriction on the
23 secondary --

24 A. One year.

25 Q. -- job? Is it just twelve --

1 A. Twelve months --

2 Q. -- months?

3 A. -- that's correct.

4 THE REPORTER: Hold on. Hold on.

5 MR. WOODLEY: Yes. We just have to pause.

6 Q. In your judgment, based upon your
7 experience in the city's fire department, is it more
8 difficult to recruit new hires into the fire
9 department because the probationary period happens
10 to be 18 months?

11 A. I haven't never seen it affect anything.
12 People be so happy to get a job here, they wouldn't
13 care if it was 36 months. We -- I haven't had
14 anybody sit at a table since I have been hiring
15 firefighters, or been on board hiring firefighters,
16 that say that your probationary period is too long.
17 They say, whatever -- they say, thank you, I just
18 want to get in the door. If I can get in the door,
19 it's wonderful.

20 Q. Did it come to your attention that
21 Mr. Davis and other firefighters in the city fire
22 department were opposed to the policy change
23 extending the probationary period to 18 months?

24 A. Not basically until after the fact. They
25 didn't have anything to do with it.

1 Q. So you learned about the opposition after
2 the fact; is that correct?

3 A. Basically, yes, through conversation.

4 Q. Did anyone tell you the reasons why some of
5 the firefighters, including Mr. Davis, opposed the
6 extension of the probationary period?

7 A. No, sir. I learned later that they had, I
8 guess, taken it wrong or whatever. But all they had
9 to do was come to my office and --

10 Q. No, I understand. You keep saying -- and I
11 appreciate that -- that you want them to come to
12 you.

13 A. Well, they could have went to the assistant
14 chiefs, deputy chiefs.

15 Q. But if I may, I just want to focus on this
16 very limited question. Did you eventually become
17 aware of what the reasons were given by Mr. Davis or
18 other firefighters that they were not in favor of
19 extending the period to 18 months?

20 A. I've heard bits and pieces, but I still
21 don't know.

22 Q. So what are they?

23 A. I still don't know the reason.

24 Q. So you don't have any idea why --

25 A. I still don't know the reason.

1 Q. -- they --

2 THE REPORTER: Hold on.

3 Q. So even today, you still don't know?

4 A. I don't know the exact reason of what was
5 behind that whatsoever.

6 Q. Okay. Fair enough. That's my question.

7 THE REPORTER: Please try not to talk over
8 each other.

9 Q. All right. Let's move on to another area,
10 Chief Hunter. At some point in time in April of
11 2006, did it come to your attention that Mr. Davis,
12 as the then-president of the firefighters' labor
13 association, placed a telephone call to Mayor
14 Hardin?

15 A. That's correct.

16 Q. And did it come to your attention that, in
17 fact, Mr. Davis, in his role as the president of
18 firefighters' local union, had, in fact, a telephone
19 conversation in the middle of April of 2006 with the
20 mayor?

21 A. That's correct.

22 Q. And how did that come to your attention?

23 A. I was talking to our Personnel --
24 conversation with our personnel director.

25 Q. Barbara Goodwin?

1 A. That's correct.

2 Q. Let me invite your attention to Exhibit 23,
3 which is on this subject. This is a memo from you,
4 Chief Hunter, to H.H. -- otherwise known as Bubba --
5 Roberts --

6 A. That is correct.

7 Q. -- city manager, dated April 20, 2006, with
8 a copy being sent by you to Barbara Goodwin,
9 personnel director. And the re line is Sergeant
10 Davis, Merit System and SOP violations, end quote.
11 See where it says that?

12 A. That's correct.

13 Q. And at the beginning of this memo, you do
14 indicate what you just told me, that you were
15 informed in a conversation that you had with
16 Personnel Director Goodwin that the city's new
17 probation time for new hires for public safety was
18 evidently the subject of a telephone conversation
19 that Mr. Davis had with the mayor; is that true?

20 A. That's correct.

21 Q. When you learned of that conversation that
22 Mr. Davis had with the mayor from Ms. Goodwin, were
23 you instructed by anyone to look into the matter, to
24 investigate the subject?

25 A. No, sir. I instructed someone to look into

1 the subject.

2 Q. So you did that on your own?

3 A. That's correct.

4 Q. Did Ms. Goodwin suggest or recommend or
5 request that you look into the conversation that
6 Mr. Davis had with the mayor?

7 A. I solely done that on my own.

8 Q. Did you inform City Manager Roberts that
9 you were going to be looking into the telephone
10 conversation that Davis had with Mayor Hardin?

11 A. I informed him what I had heard.

12 Q. From Ms. Goodwin?

13 A. That's correct.

14 Q. What did you tell Manager Roberts about
15 that?

16 A. I told him that I have heard that I have an
17 employee that had directly contacted a council
18 member. And then I had Deputy Chief Waters to talk
19 to him and ask him was this true and to find out
20 what was the reasons, because we had been having
21 open meetings on a lot of different things
22 discussing what we was in the process of doing. And
23 Deputy Chief Waters told me that he had brought this
24 up in meetings that they had had so everybody was
25 informed of what we was in the process of trying to

1 do. So --

2 Q. This conversation --

3 A. -- I was wondering why this came about.

4 Q. The conversation that you just mentioned
5 you had with City Manager Roberts about this
6 subject, did this conversation occur before actually
7 investigating Mr. Davis and disciplining Mr. Davis?
8 I'm trying to get the timing of your conversation
9 with Roberts.

10 A. Did it come before?

11 Q. Yes.

12 A. Yes, it came before, because I had to find
13 out the details first.

14 Q. So you talked to City Manager Roberts
15 before conducting the investigation?

16 A. This is what I done. When I found out
17 about the conversation that particular evening, the
18 next morning I made a phone call to the deputy chief
19 to investigate this. And then I made sure I
20 informed the city manager what I was doing.

21 Q. At that time?

22 A. At that time.

23 Q. Was that by a telephone call to
24 Mr. Roberts?

25 A. It probably was by coming upstairs. My

1 office is right over there. Probably told him face
2 to face.

3 Q. And, at that time, what did Mr. Roberts
4 comment to you about looking into the conversation
5 that Davis had with the mayor?

6 A. Basically is -- like I say, Mr. Roberts
7 give us the opportunity to manage our departments.
8 So it's a matter if that's something you need to
9 look into, then look into it.

10 Q. Is that what he said to you, go ahead and
11 look into it?

12 A. Basically -- I can't remember exact words,
13 but he knew that's what I was doing.

14 Q. Did Mr. Roberts tell you at that time that
15 he felt like that might be a violation of the Merit
16 System rules and regulations?

17 A. No. Mr. Roberts didn't have to tell me
18 that. I felt like that.

19 Q. You felt like that on your own?

20 A. Yes, sir. Yes, sir.

21 Q. So you commissioned Deputy Chief Roy Waters
22 to investigate the matter and to speak with Davis
23 about his telephone conversation with the mayor; is
24 that correct?

25 A. That's correct.

1 Q. And did Deputy Chief Waters then report
2 back to you?

3 A. Yes, sir.

4 Q. Okay. And do you know if Mr. Davis gave a
5 written statement addressed to you concerning his
6 conversation with the mayor?

7 A. That's correct.

8 Q. And if you would look to Exhibit 22, which
9 appears to be a brief written statement from David
10 Davis dated April 19, 2006, addressed to you as the
11 fire chief. And so would that be the written
12 statement coming from Mr. Davis about his telephone
13 conversation with the mayor?

14 A. That's correct.

15 Q. As far as you know, is that statement true
16 and correct? Read it to yourself completely.

17 A. That is correct. That's -- this is the
18 form. This is what he gave me.

19 Q. But my question really is Exhibit 22 --
20 again, Davis's written statement dated April 19,
21 2006 addressed to you -- as far as you know, Chief,
22 is what Mr. Davis said in that written statement
23 true and correct?

24 A. Well, in his words, yes. The only choice I
25 have is --

1 Q. But you don't have any other basis --

2 A. -- take his word.

3 Q. I'm sorry.

4 A. I just have to -- I only can take his word.

5 Q. Do you have any other facts or basis to
6 suggest that what Mr. Davis said in his written
7 statement was untrue?

8 A. I guess what you're asking me as far as
9 reading this, I guess, as a -- what are you asking
10 me?

11 Q. Do you have any information or facts to
12 indicate that the statements contained in Mr. Davis'
13 written statement which we are reviewing now are
14 untrue or incorrect?

15 A. I don't have a reason to believe that they
16 are not true.

17 Q. Okay. Thank you. That's all I was
18 asking.

19 What was your understanding of the nature, if
20 you know, sir, of the telephone conversation between
21 Mr. Davis and the mayor? Do you know if it was on
22 the extension of the probation period? Do you know
23 if it was on other issues that Mr. Davis and Mayor
24 Hardin talked about?

25 A. That's basically what Ms. Goodwin had

1 expressed to me; that he called, I guess, to express
2 his feelings about the probationary period or
3 whatever.

4 Q. For new hires?

5 A. That he didn't agree with it, whatever. I
6 don't know if it was just for new hires or whether
7 he had taken it that it was going to affect him or
8 not.

9 Q. Well, in your memo to Mr. Roberts that we
10 looked at, Exhibit 23, you indicated that
11 Ms. Goodwin had told you there had been a telephone
12 conversation involving Davis and the mayor
13 concerning the new probation time for new hires.
14 You see where it says that?

15 A. Yes.

16 Q. So that was your information as well?

17 A. Yes.

18 Q. Now, later on in that same memo, Exhibit
19 23, from you to Roberts, you criticize Mayor Hardin
20 and you indicate -- you'll see at the bottom of the
21 memo, it says, quote, Mayor Hardin should refer any
22 employee violating the chain of command as indicated
23 in our Merit System back to their department head,
24 personnel department, or city manager. Failing to
25 do so is a violation of our city charter, end

1 quote. You see where you say that?

2 A. That's correct.

3 Q. You're basically accusing the mayor of
4 violating the city charter by talking to a city
5 employee; is that correct?

6 A. In the Merit System, employees are not to
7 have direct contact with -- and the mayor is a
8 council member. And not only that, it's a chain
9 that you go through to even -- to be told whether
10 you can do this or not do it. So the mayor -- yes.
11 That's -- I'm not accusing him of anything. The
12 mayor might have not known this, you know. I'm
13 saying the mayor might have not known this. But in
14 our city charter, it says inquiries about any
15 departments in our city are made solely through the
16 city manager.

17 Q. What, in your mind, was the failure of the
18 mayor when you mention this in the memorandum?

19 A. I guess in my mind, it was that once the
20 subject of the probationary period came up and he
21 recognized and knew it was David Davis, it should
22 have been the end of the conversation.

23 Q. And you understood that that was not the
24 end of the conversation, that the mayor continued
25 discussing it with Davis?

1 A. Well, Davis say in his thing that they
2 discussed the issues, and then discussed it in its
3 entirety to what they wanted to discuss it to.

4 Q. So the mayor's failing or violation of the
5 city charter was, in your judgment, the continuation
6 of the conversation with Davis, correct?

7 A. In here I said feel strongly someone should
8 speak to the mayor about sensitive issue of
9 interfering. The mayor might have not known
10 exactly.

11 Q. Do you know if anyone spoke to Mayor Hardin
12 about the issue?

13 A. That's not my job. I put it in the letter
14 form, memo form.

15 Q. Did you give a copy of this memo to the
16 mayor?

17 A. I gave a copy of it to city manager and
18 personnel director. That's not my job to go to the
19 mayor. I'm not trying to be smart at you. I'm just
20 staying within my parameters. I don't go to the
21 mayor. I stay within my parameters.

22 Q. Do you know if, in the past, any city
23 firefighters have had conversations with the mayor
24 of the city about any issues affecting the fire
25 department?

1 A. No, sir. I don't know.

2 Q. Sir, do you have any information that
3 Mr. Davis's telephone conversation with the mayor in
4 April of 2006 adversely impacted Davis's job
5 performance?

6 A. Yes. He's violated what we asked him to
7 follow as far as the standard operating procedure.

8 Q. Maybe my question really wasn't clear. His
9 actual performance on the job as a firefighter on
10 duty. Did that telephone conversation affect
11 adversely his doing his job in the fire department?

12 A. Yes, it did. He was violating rules.

13 Q. Other than the violation of the rules and
14 regulations, was he less of a firefighter in his
15 following shifts?

16 A. To be a full-rounded firefighter, you need
17 to follow the rules.

18 Q. Can you give me any concrete or specific
19 examples of how that telephone conversation between
20 Davis and the mayor actually disrupted the
21 operations of your fire department?

22 A. Disrupted chain of command. If we got one
23 person that's not following the chain of command, no
24 one else should have to follow it.

25 Q. Other than that point -- and I understand

1 that point --

2 A. That's it. That's the point.

3 Q. -- anything else? Was there any other
4 impairment or disruption, adverse impact on the
5 operations of the fire department as --

6 A. That was --

7 Q. -- let me finish, please -- as a result of
8 the conversation that Mr. Davis had with Mayor
9 Hardin?

10 A. That was the point.

11 Q. Just that other one, the chain of command?

12 A. Just that point.

13 Q. Is there also an SOP that the fire
14 department has that you believe Mr. Davis violated
15 when he talked with the mayor about the probationary
16 period?

17 A. ASOP 12, I believe it is.

18 Q. Why don't you turn to Exhibit 3? And go to
19 Exhibit 3, the fourth page, the last page of
20 Exhibit 3 which, as I understand it, is the ASOP 12
21 that you referred to; is that correct?

22 A. That's correct.

23 Q. And this talks about the subject of
24 addressing the city council; is that correct?

25 A. That's correct.

1 Q. Does that mean addressing the city council
2 as a body in a meeting, addressing the city council?

3 A. Yes. As a person -- this was written in
4 '98 -- I guess as trying to get there, the body,
5 which is a place you would never get to because it
6 stops at the city manager.

7 Q. Okay. So, in other words, under this
8 ASOP 12, firefighters are not permitted to go beyond
9 the city manager and are not permitted to address
10 the city council as a group in a meeting; is that
11 accurate?

12 A. City Manager informs the council of
13 anything that's going on. He would be the one
14 that -- if he had to express something that was bad,
15 he would be the one that would meet with the city
16 council.

17 Q. If a firefighter had a concern about
18 staffing, morale, equipment, budget within the fire
19 department, those kinds of issues, Chief Hunter,
20 that firefighter is not permitted to go directly to
21 the city council in a public meeting and express
22 those concerns?

23 A. That's correct.

24 Q. And if he did so, that would violate the
25 chain of command and would violate this ASOP; is

1 that correct?

2 A. That's right. And it would -- yes, sir.

3 Q. But I guess I'm confused and maybe you can
4 explain it for me. Mr. Davis, of course, made a
5 telephone communication with the mayor while he was
6 off duty. He was not addressing the city council in
7 a meeting or in any other way addressing the city
8 council. So how would Mr. Davis's telephone
9 conversation with the mayor while he was off duty
10 have violated this ASOP which appears to only
11 address the city council?

12 A. For one thing, he broke Merit System. It's
13 a Merit System violation. And for the next thing,
14 if he wanted to try to contact, to go directly --
15 which you'll see here, if any fire department member
16 appears before or try to directly contact -- it says
17 directly contact on number 4 -- a city council
18 member about work-related problems without following
19 these procedures. And it addresses that.

20 Q. And work-related business, you would
21 explain that to include virtually all issues that
22 affect the fire department; is that correct?

23 A. That's correct.

24 Q. Okay. Are you aware that there's a State
25 of Alabama code provision that allows firefighters

1 to belong to an association?

2 A. Yes, sir.

3 Q. We covered that earlier?

4 A. Yes, sir.

5 Q. Okay. And I'm not sure if I asked this,
6 Chief, but I want to make sure it's on the record.
7 You, as the fire chief, you report directly to the
8 city manager?

9 A. That's correct.

10 Q. In the city charter or the city code, are
11 there any provisions, to your knowledge, that
12 address your duties and responsibilities as the fire
13 chief?

14 A. That is correct. I work up under city
15 manager.

16 Q. I know there are provisions that address
17 city manager, and the council and the mayor. But as
18 far as I know, there's no city code provisions or
19 charter provisions that cover you as the fire
20 chief. Is that your understanding?

21 A. I'll have to make sure I look back at that,
22 because I know I -- I would have to look at that.

23 Q. Fair enough. Okay. So let's return to the
24 investigation of Mr. Davis concerning the telephone
25 conversation he had with the mayor. We already

1 covered the subject of Mr. Davis giving his written
2 statement as he was interviewed by Deputy Chief
3 Waters. And we covered in large part the memorandum
4 that you issued to City Manager Roberts dated
5 April 20, 2006. That was Exhibit 23.

6 What next occurred in that process of doing the
7 investigation of Mr. Davis which ultimately led to,
8 of course, his termination?

9 A. What next occurred? We determined that it
10 was a violation. We had to do a write-up, a written
11 write-up. So when that occurred, we took a look at
12 that. That one infraction didn't get Sergeant Davis
13 terminated. It was the multiple infractions and the
14 Group II offenses in Section 14 of the Merit System
15 that didn't allow for him to go over those two
16 different things that led to his termination. It
17 wasn't the one thing; it was the second.

18 That's why I had the meeting with Sergeant
19 Davis in September, to prevent this. He knew he
20 already had one Group II offense. And knowing the
21 Merit System, that was what we was trying to do,
22 make sure that we prevented anybody from going over
23 their infractions that they're allowed. In the
24 group, we have three offenses, three groups of
25 offenses in the Merit System. Part of our job is

1 when we see a person, in trying to keep an employee
2 from getting to that point, we have counseling
3 sessions or whatever it takes to prevent that,
4 because you don't want to terminate anybody. And
5 that's what happened when this particular infraction
6 happened. It pushed it to the second Group II,
7 which is not allowed. That led to his termination.

8 Q. You mentioned that there was an earlier
9 Group II offense involving Mr. Davis. Was that the
10 newspaper article --

11 A. No, sir.

12 Q. -- and the counseling form?

13 A. No, sir.

14 Q. What was the earlier Group II offense?

15 A. It was one -- it should be on that -- it
16 should be listed on his termination form as far
17 as -- it should be on the written. You have to put
18 a list of what a person has in the previous file.

19 MR. WOODLEY: Could we go off the record
20 for a second?

21 MR. GRAHAM: Sure.

22 (Brief recess.)

23 MR. WOODLEY: Back on the record.

24 Q. Again, Chief Hunter, we're talking about
25 Exhibit 24. If you would, turn to that for a